香港申訴專員公署

Office of The Ombudsman, Hong Kong

# 主動調查報告

# Direct Investigation Report

# 政府土地上棄置車輛的問題

# Problem of Abandoned Vehicles on Government Land

報告完成日期：2022年8月30日

Completion Date: 30 August 2022

報告公布日期：2022年9月1日

Announcement Date: 1 September 2022

# CONTENTS


*Executive Summary*

| *Chapter* | | *Paragraph* |
|---|---|---|
| *1* | *INTRODUCTION* | |
| | *Background* | *1.1 - 1.4* |
| | *Scope of Investigation* | *1.5* |
| | *Process of Investigation* | *1.6* |
| *2* | *VEHICLE REGISTRATION AND LICENSING REQUIREMENTS* | *2.1* |
| | *Vehicle Registration and Licensing* | *2.2 - 2.5* |
| | *Change and Record of Vehicle Particulars* | *2.6 - 2.7* |
| | *Cancellation of Registration After Vehicle is Scrapped* | *2.8* |
| | *Unlicensed Vehicles May Be De-Registered* | *2.9* |
| | *Non-Licensing of Vehicles in Recent Years* | *2.10 - 2.14* |
| | *TD Exploring Regulations to Strengthen Regulation of Vehicle Registration and Disposal* | *2.15 - 2.16* |
| *3* | *HANDLING THE PROBLEM OF ABANDONED VEHICLES BY THE AUTHORITIES* | |
| | *Relevant Legislation* | *3.1* |
| | *Powers, Responsibilities and Efforts of Government Departments Involved* | |
| | *HKPF* | *3.2* |
| | *LandsD* | *3.3 - 3.8* |
| | *TD* | *3.9 - 3.12* |
| | *HyD* | *3.13* |
| | *Inter-Departmental Joint Operations* | *3.14 - 3.16* |
| | *Coordination by HAD* | *3.17 - 3.19* |
| *4* | *OVERVIEW OF THE ABANDONED VEHICLE PROBLEM* | |
| | *Complaint Figures* | *4.1* |
| | *Number of Abandoned Vehicles Removed by LandsD* | *4.2* |
| | *Surveys of Public Parking Spaces* | *4.3 - 4.4* |
| | *Our Site Visits* | *4.5 - 4.9* |

| | | |
|---|---|---|
| ***5*** | ***COMMENTS AND RECOMMENDATIONS*** | |
| | ***Overall Comments*** | ***5.1 - 5.4*** |
| | ***(I) TD Should Promptly Amend the Legislation to Hold Vehicle Owners Responsible for Proper Disposal of Their Unwanted Vehicles*** | ***5.5 - 5.8*** |
| | ***(II) TD Should Take Initiative to Remind Vehicle Owners To Renew Vehicle Licence in A Timely Manner and Dispose of Unwanted Vehicle Properly*** | ***5.9 - 5.12*** |
| | ***(III) TD and LandsD Should Strengthen Collaboration in Evidence Collection to Raise Chance of Successful Prosecution for Greater Deterrent Effect*** | ***5.13 - 5.14*** |
| | ***(IV) There Had Been an Enforcement Vacuum*** | ***5.15 - 5.17*** |
| | ***Our Recommendations*** | ***5.18*** |
| | ***Acknowledgements*** | ***5.19*** |

# Executive Summary
# Direct Investigation Report

## Problem of Abandoned Vehicles on Government Land

### Introduction

Unwanted vehicles being left on public parking spaces, public roads or pavements for prolonged periods is a persistent and pervasive problem in Hong Kong. Abandoned vehicles sitting at the roadside for months on end would lead to a waste of public parking spaces and obstruction to road users; while vehicles abandoned on public roads and other government land would also bring street management and hygiene problems.

2. Since 2000 when the Hong Kong Police Force ("HKPF") ceased to follow up on abandoned vehicles that pose no danger to traffic or road safety, the Government has been adopting an enforcement strategy that tries to prosecute the registered owners of those vehicles abandoned on government land by invoking the Land (Miscellaneous Provisions) Ordinance (Cap 28, "LMPO"). Nevertheless, the Lands Department ("LandsD") considered that difficulty of proof had rendered prosecution efforts largely ineffective. The Department thus suspended its work on evidence collection and prosecution for those cases since 2007. The relevant departments have been engaging in rounds of discussions to resolve the issue since 2018. It was not until 2021 when the Home Affairs Department ("HAD") intervened that inter-department joint clearance operations were launched to remove abandoned vehicles.

3. The crux of the problem, as The Ombudsman sees it, is that the Government has yet to establish the responsibility of vehicle owners to dispose of their vehicles properly and hold the owners liable for non-compliance. As a result, vehicle owners can wilfully abandon their vehicles. Stepped up efforts by the Government to remove vehicles abandoned at the roadside have in effect helped vehicle owners dispose of their vehicles for free. The removal efforts only address the symptoms and offer no long-term solution to the problem.

## Our Findings

4. Having examined how the relevant Government departments[Note] have been handling the problem of abandoned vehicles, we have the following comments and recommendations.

### *(I) Transport Department ("TD") Should Promptly Amend the Legislation to Hold Vehicle Owners Responsible for Proper Disposal of Their Unwanted Vehicles*

5. The Audit Commission, in its Report No. 34 published in 2000, had already pointed out the absence of any legislation in Hong Kong to hold the registered owners of vehicles responsible for the proper disposal of their vehicles, and recommended that the current legislation be amended to impose penalties on owners who fail to dispose of their vehicles properly. TD is responsible for vehicle registration and licensing and holds the registration details of all vehicles in Hong Kong. The legislation enforced by the Department also covers the whole life cycle of vehicles in Hong Kong, from their specifications, importation and registration, maintenance and inspection, to their destruction, etc. Each and every phase in the cycle comes under TD's powers and functions. We are of the opinion that TD should proactively examine ways to make better use of the vehicle registration system so that vehicle owners can be prompted to dispose of their unwanted vehicles properly, and to propose legislative amendments as and when necessary.

6. It has been more than 20 years since the publication of the aforementioned Report. Yet, there is no information showing that TD has been taking proactive actions as recommended. Even after LandsD later pointed out that prosecution actions against those who had abandoned their vehicles on government land had been largely ineffective and unsuccessful, TD just continued to focus on removing abandoned vehicles, rather than establishing the responsibility of vehicle owners and holding them liable for violations. We consider it inappropriate of TD to define occupation of public roads and public parking spaces by abandoned vehicles merely as a land administration problem. In the absence of effective penalties, it costs vehicle owners extremely little to simply abandon their vehicles on public parking spaces, at the roadside or on government land and the situation would not improve at all.

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[Note] While HKPF has provided us with information, statutory restrictions preclude this Office from investigating or commenting on its actions.

7. We are glad to learn that upon our declaration to launch this direct investigation, TD has commenced a study to enhance the regulatory regime for vehicle registration and put forward more concrete legislative amendment proposals. This is a step towards rectifying the problem. We opine that TD should closely follow up on and press ahead with the legislative amendments, formulate clear objectives and set a timetable for enacting the amended legislation. The amendments should include provisions stating outright the vehicle owners' responsibility for the proper disposal of their unwanted vehicles and their legal liability for non-compliance. The relevant provisions should also confer power on the Government to require vehicle owners to bear the cost incurred by the authorities in disposing of the vehicles on their behalf, and/or impose a fine with sufficient deterrent effect.

### *(II) TD Should Take Initiative to Remind Vehicle Owners to Renew Vehicle Licence in A Timely Manner and Dispose of Unwanted Vehicles Properly*

8. Information shows that each year, quite a number of vehicles have had their registration cancelled by TD pursuant to section 15 of the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374E, the "RLV Regulations") because of non-renewal of licence for two consecutive years. Between 2016 and 2021, a total of 8,540 motorcycles and 68,521 private cars had been so de-registered by TD.

9. The sheer number of unlicensed or de-registered vehicles with status and whereabouts unknown would have latent implications for use of land (including roads), cityscape and environmental hygiene. As the authority responsible for vehicle registration and licensing, TD should be concerned about the whereabouts of these vehicles. Nevertheless, before cancelling a vehicle's registration, TD would only notify its owner in writing that de-registration would be done after 15 days, but not take the opportunity to enquire about the current status and whereabouts of the vehicle, or in case the owner decides to give up the vehicle, whether the vehicle has been properly disposed of. We consider TD's practice unsatisfactory from an administrative perspective.

10. To monitor and prevent the problem of abandoned vehicles before completion of the legislative amendments, TD should proactively remind vehicle owners of their responsibility to properly dispose of their vehicles and to notify the Department after their vehicles have been broken up, destroyed or despatched permanently out of Hong Kong, as required under section 20(1) of the RLV Regulations. In respect of vehicles whose licence has remained unrenewed for a certain period (say, the licence has expired for more than a year), TD should remind their owners to renew the licence in a timely manner and to properly dispose of the vehicles.

### *(III) TD and LandsD Should Strengthen Collaboration in Evidence Collection to Raise Chance of Successful Prosecution for Greater Deterrent Effect*

11. At present, the inter-departmental joint clearance operations to remove abandoned vehicles on public roads, public pavements and public parking spaces, as well as LandsD's enforcement actions against vehicles abandoned on other government land, are largely conducted pursuant to the LMPO. Yet, the number of successful prosecutions was minuscule. LandsD has mentioned the difficulty in tracing the identity of the occupier if the vehicle in question had already been de-registered.

12. Since 2007, LandsD has suspended its work on evidence collection and prosecution for abandoned vehicle cases. Our view is that removals short of prosecution cannot help solve the problem. For more effective enforcement, LandsD should consider relaunching its work on evidence collection and prosecution; while TD should proactively assist in providing information about the vehicle owners concerned and modify the procedures for or postpone de-registration of vehicles to facilitate LandsD's tracing the identity of the occupiers.

### *(IV) There Had Been an Enforcement Vacuum*

13. Between December 2018 and December 2019, LandsD had twice revised its internal guidelines to instruct District Lands Offices to refer cases of abandoned vehicles on public roads to HKPF and the Highways Department ("HyD") for their follow-up actions. However, records show that HKPF had not accepted LandsD's referral arrangement, while LandsD had failed to directly notify HyD of the arrangement. Under such circumstance, no Government department was actually responsible for handling complaints about abandoned vehicles on public roads since December 2018, resulting in an extremely undesirable enforcement vacuum that lasted for as long as two years. We must point out that even if LandsD considered it ineffective and resource-draining for the Department to follow up on cases of abandoned vehicles, it should not have ceased related efforts unilaterally before some other department took over the matter.

14. Fortunately, with HAD's coordination, the departments concerned eventually agreed to collaborate and adopt the mode of inter-departmental joint operations since early 2021 to handle vehicles abandoned on public roads, public pavements, public parking spaces and public transport interchanges. However, the responsibility for handling certain cases (e.g. motorcycles abandoned in public rear lanes) is yet to be

confirmed, and as a result, the vehicles concerned are yet to be handled. On this matter, we consider that LandsD and TD must take the initiative to engage in substantive discussions with other relevant departments (including HyD and HKPF) to strengthen inter-departmental cooperation with a view to formulating together the procedures for handling the motorcycles abandoned in rear lanes.

15. Furthermore, we consider that HAD, as the department that drives the development of district administration, can be more proactive in organising joint clearance operations in a timelier fashion based on the actual situation of individual districts. It should also explain clearly the relevant follow-up actions to complainants and members of the public.

**Our Recommendations**

16. In light of our findings in this direct investigation, The Ombudsman has made seven recommendations, as follows:

(1) **TD** to closely follow up on and press ahead with the legislative amendments to stipulate clearly that vehicle owners are responsible for proper disposal of their unwanted vehicles and they are liable for non-compliance;

(2) **TD**, in the process of legislative amendments, to consider adding provisions that allow the Government to recover from the persons concerned the cost incurred in disposing of the abandoned vehicles on their behalf, and/or impose a fine;

(3) **TD** to proactively remind owners of vehicles of which vehicle licence have already expired for a certain period to renew the vehicle licences and to dispose of their vehicles properly;

(4) **LandsD** to consider relaunching its work on evidence collection and prosecution in abandoned vehicle cases, including collaborating with TD to check the information of the last owner of vehicle concerned in order to trace the identity of the occupier;

(5) **TD** to proactively collaborate with LandsD in evidence collection, including considering modifying the procedures of de-registering a vehicle which has remained unlicensed for more than two years or postponing its de-registration so as to facilitate LandsD's tracing the identity of the occupier;

(6) **LandsD and TD** to strengthen cooperation with other relevant departments (including HyD and HKPF) with a view to formulating together the procedures for handling the motorcycles abandoned in public rear lanes; and

(7) **HAD** to proactively monitor the situation of various districts and organise joint clearance operations in a timelier fashion to remove abandoned vehicles in a district. It should also explain clearly its follow-up actions to complainants and members of the public.

**Office of The Ombudsman**
**September 2022**

# 1

# INTRODUCTION

## BACKGROUND

**1.1** In recent years, members of the public have from time to time pointed out that public parking spaces, roadside or other government land were occupied for a long time by abandoned vehicles, and yet, the Government departments concerned have neither removed those vehicles promptly, nor taken enforcement actions or effective measures to deter such behaviour, thereby perpetuating the problem.

**1.2** At present, the Hong Kong Police Force ("HKPF") will take action against vehicles abandoned on public roads that cause danger or traffic obstruction pursuant to the Road Traffic Ordinance (Cap. 374, "RTO"). Where a vehicle is dumped on government land without causing danger or traffic obstruction, the Lands Department ("LandsD") will post a notice on it in accordance with the Land (Miscellaneous Provisions) Ordinance (Cap. 28, "LMPO") to demand the occupier to remove the vehicle by the deadline specified, or the Government will remove and confiscate the vehicle, and consider prosecuting the occupier concerned. Nevertheless, there had been no successful prosecution cases since 2007. To our understanding, in cases of abandoned vehicles on government land, even if LandsD can get hold of the information about the last registered owner of the vehicles, it can hardly trace the identity of the occupier and collect sufficient evidence for pressing charges against the offender.

**1.3** In fact, in its Report No. 34[1] published in 2000, the Audit Commission had pointed out the absence of any legislation in Hong Kong to hold the registered owners of vehicles responsible for the proper disposal of their vehicles, and recommended that the current legislation be amended to impose penalties on owners who fail to dispose of their vehicles properly.

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1 Chapter 1 of the Director of Audit's Report No. 34 published in February 2000 is titled "Hong Kong Police Force - The provision of vehicle removal service and permanent vehicle pounds".

**1.4** Against this background, The Ombudsman launched a direct investigation against TD and LandsD pursuant to section 7(1)(a)(ii) of The Ombudsman Ordinance on 22 June 2021 to probe the effectiveness or otherwise of the Government's measures for tackling the problem of abandoned vehicles on government land.

## SCOPE OF INVESTIGATION

**1.5** The scope of this direct investigation covers:

- the current vehicle registration and licensing regime and requirements in Hong Kong;
- the efforts of Government departments[2] in handling the problem of abandoned vehicles, and the effectiveness of such efforts;
- arrangements for inter-departmental joint operations for removing abandoned vehicles; and
- other areas for improvement.

## PROCESS OF INVESTIGATION

**1.6** We announced the launch of this direct investigation and invited views from members of the public on the topic on 22 June 2021. On 1 April 2022, we issued a draft investigation report to the relevant departments for comments. This final report, upon considering and duly incorporating their comments, was completed on 30 August 2022.

[2] While HKPF has provided relevant information, statutory restrictions preclude this Office from investigating or commenting on HKPF's actions.

# 2

# VEHICLE REGISTRATION AND LICENSING REQUIREMENTS

**2.1** The RTO (Cap. 374) and the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374E, "RLV Regulations") empowers TD to register and issue licences to all vehicles, and regulate related matters. The provisions under these two laws relating to the regulation of vehicle registration/licensing matters and relevant to this direct investigation are tabulated in **Table 1**.

**Table 1: Provisions relating to the regulation of vehicle registration / licensing under the RTO and RLV Regulations**

| | Relevant provisions | Content | Maximum penalties for violation |
|---|---|---|---|
| | **A vehicle driven or used on the road must be registered and licensed** | | |
| (1) | Section 52(1), RTO | No person shall drive or use a vehicle of a class specified in Schedule 1[3] on a road unless the vehicle is registered and licensed in accordance with this Ordinance | On first conviction, a fine of $5,000 and imprisonment for 3 months; on second or subsequent conviction, a fine of $10,000 and imprisonment for 6 months |
| | **Display of vehicle registration mark ("VRM")** | | |
| (2) | Section 8, RLV Regulations | Registered owner of a vehicle shall display on the vehicle the VRM assigned to the vehicle by TD (i.e. car number plate). | A fine of $2,000 |

3 Private car, taxi, public light bus, private light bus, all types of goods vehicle, public bus, private bus, special purpose vehicle, motorcycle. motor tricycle, invalid carriage and trailer.

| | Relevant provisions | Content | Maximum penalties for violation |
|---|---|---|---|
| | **Cancellation of registration for non-licensing** | | |
| (3) | Section 15, RLV Regulations | If no vehicle licence has been in force in respect of a vehicle for a period of 2 years, TD may, after 15 days of issuing a notice to its registered owner, cancel the registration of the vehicle. | (Not applicable) |
| | **Changes of particulars of registered owner** | | |
| (4) | Section 19, RLV Regulations | Registered owner of a vehicle shall notify TD in writing within 72 hours after any change of name, address, e-contact means or other personal particulars | A fine of $2,000 |
| | **Notice of vehicle having been broken up, destroyed or despatched permanently out of Hong Kong** | | |
| (5) | Section 20(1), RLV Regulations | Registered owner of vehicle shall notify TD within 15 days after the vehicle is broken up, destroyed or despatched permanently out of Hong Kong. | A fine of $2,000 |
| | **Display of vehicle licence** | | |
| (6) | Section 25, RLV Regulations | A vehicle shall only be upon or used on a road with a valid vehicle licence in respect of the vehicle displayed in a manner as specified in the Regulations. Non-compliant registered owner or driver concerned commits an offence. | A fine of $2,000 and imprisonment of 3 months |

## VEHICLE REGISTRATION AND LICENSING

**2.2** Under the RTO, all vehicles in Hong Kong must be registered with and licensed by TD before they can be driven or used on roads (see **item (1) in Table 1, para. 2.1**). Upon accepting the registration of a vehicle, TD will allocate a VRM to the vehicle and issue to its registered owner a registration document containing the particulars of the vehicle.

**2.3** Any vehicle having been registered with TD shall be licensed. The vehicle licence, which allows the vehicle to be used legally on roads, shall be displayed on the left of the vehicle's windscreen; or for motorcycles or vehicles without a windscreen, in a conspicuous place on the front left of the vehicle (see **item (6) in Table 1, para. 2.1**).

**2.4** A vehicle licence is valid for either one year or four months. Registered owners can apply for licence renewal four months before expiry of the current licence. Once the licence expires, a vehicle cannot be driven legally on the road.

**2.5** In addition, according to the Motor Vehicles Insurance (Third Party Risks) Ordinance (Cap. 272), registered owners of vehicles or drivers shall only use a vehicle on the road if there is in force such a policy of insurance or such a security in respect of third-party risks as complies with the requirements of the Ordinance. Non-compliance is an offence. TD can refuse to issue a licence to a vehicle or cancel its licence on grounds of absence of a valid third-party insurance policy with respect to the vehicle.

## CHANGE AND RECORD OF VEHICLE PARTICULARS

**2.6** The RLV Regulations stipulates that registered owners of vehicles shall notify TD in writing within 72 hours upon any change of vehicle particulars, including the body colour and engine number of the vehicle; as well as the name, correspondence address, e-contact means or other personal particulars of the registered owner (see **item (4) in Table 1, para. 2.1**).

**2.7** The information of all registered vehicles and driving licence holders are recorded in and managed through TD's computer system. Even if the registration mark of a vehicle has been cancelled, pertinent information about the vehicle, including its

chassis number[4], engine number and the identity card number of the registered owner (including all previous registered owners) and the particulars of his/her driving licence will be kept in TD's computer system. TD indicated that technically, it can provide assistance and check the records of the registered owner of a vehicle for the sake of law enforcement to a law enforcement department eligible for exemption under Part 8 of the Personal Data (Privacy) Ordinance (Cap. 486)[5] if the latter can provide the correct chassis number of the vehicle.

## CANCELLATION OF REGISTRATION AFTER VEHICLE IS SCRAPPED

**2.8** Registered owners of vehicles who use services provided by commercial vehicle scrapping companies to scrap their vehicles should follow the requirement of Section 20(1) of the RLV Regulations (see **item (5) in Table 1, para. 2.1**) and send within 15 days all relevant documents (including a completed Notification for Cancellation of Vehicle Registration, the vehicle's registration document and the Scrapping Certificate issued by the vehicle scrappy company) to a Licensing Office under TD for going through the formalities of cancelling the vehicle's registration[6]. TD pointed out that if a registered owner does not dispose of the vehicle properly and fails to complete the aforesaid cancellation formalities, he/she must bear all legal liabilities associated with the vehicle.

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4 The chassis number of a vehicle is a unique identification number provided to each vehicle by the chassis manufacturer in accordance with international standards. A combination of 17 Arabic numerals and English letters, the chassis number indicates the vehicle's specification, year of manufacture, name of the manufacturer and the vehicle's attributes, etc.

5 Part 8 of the Personal Data (Privacy) Ordinance specifies certain circumstances under which personal data can be exempted from the restriction of certain provisions. The circumstances include the prevention of crimes or prosecution, security and defence, compilation of statistics and study, and protection of the health of the data subject, etc.

6 The registered owner of the vehicle should make sure that the Business Registration Certificate Number of the scrapping company has been marked on the Scrapping Certificate. The signer for the scrapping company must declare that the vehicle in question can no longer be used on road or re-assembled into a vehicle. If a false statement is made, the signer will be liable under Section 111(3) of the RTO to a fine of $5,000 and imprisonment for 6 months.

## UNLICENSED VEHICLES MAY BE DE-REGISTERED

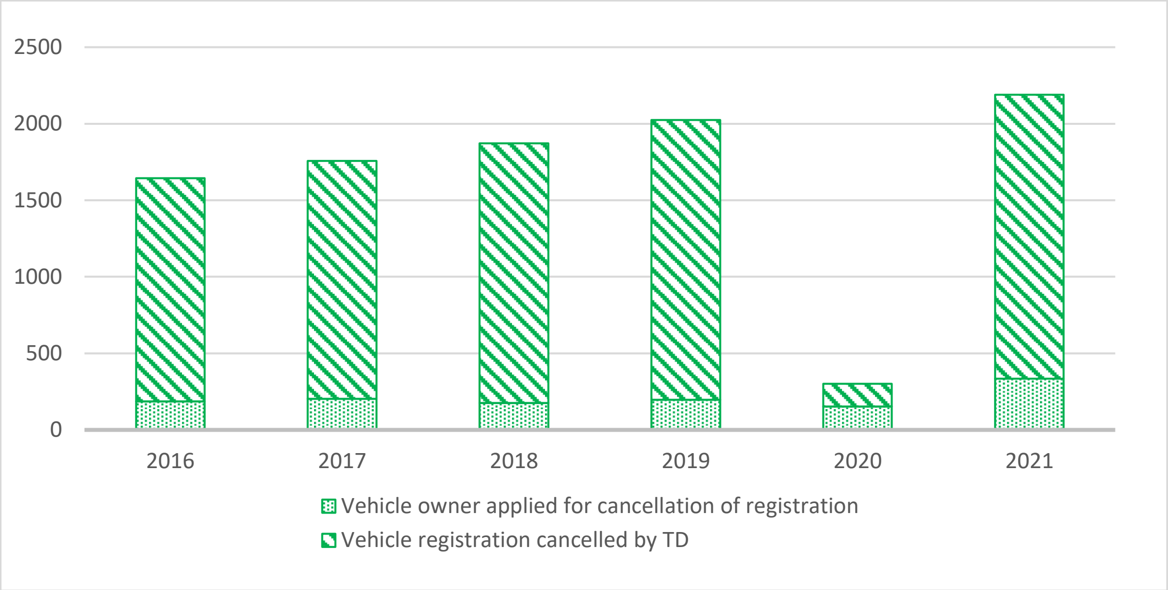
**2.9** Pursuant to Section 15 of the RLV Regulations, if no vehicle licence has been in force in respect of a vehicle for a period of two years, TD may, after 15 days of issuing a notice to its registered owner, cancel the registration of the vehicle (see **item (3) in Table 1, para. 2.1**). A de-registered vehicle cannot have its licence renewed, nor be driven or used on the road. It must pass a vehicle examination at a TD Vehicle Examination Centre to prove its safety and roadworthiness, be re-registered and re-licensed before it can hit the road again. TD opined that this can effectively protect the safety of road users. Nevertheless, the law has neither conferred power on TD to follow-up on the actual status and whereabouts of a vehicle after it has been de-registered, nor spelt out the legal responsibilities of the vehicle owner after his/her vehicle has been de-registered by TD.

## NON-LICENSING OF VEHICLES IN RECENT YEARS

**2.10** According to TD's Annual Transport Digest 2021, during the ten years between 2011 and 2020, the number of registered vehicles has risen from 707,231 to 928,041 (as at the end of 2020). Of these, 92,622 were motorcycles (the second largest number among all vehicle types) and 651,358 were private cars (the largest number among all vehicle types). Among the registered motorcycles and private cars, 27,939 motorcycles (or 30.2% of all registered motorcycles) and 78,355 private cars (or 12% of all registered private cars) are not licensed. In other words, at as the end of 2020, over 100,000 motorcycles and private cars (or 14.3% of these two types of vehicles registered) could not be driven or used on the road for want of a valid licence.

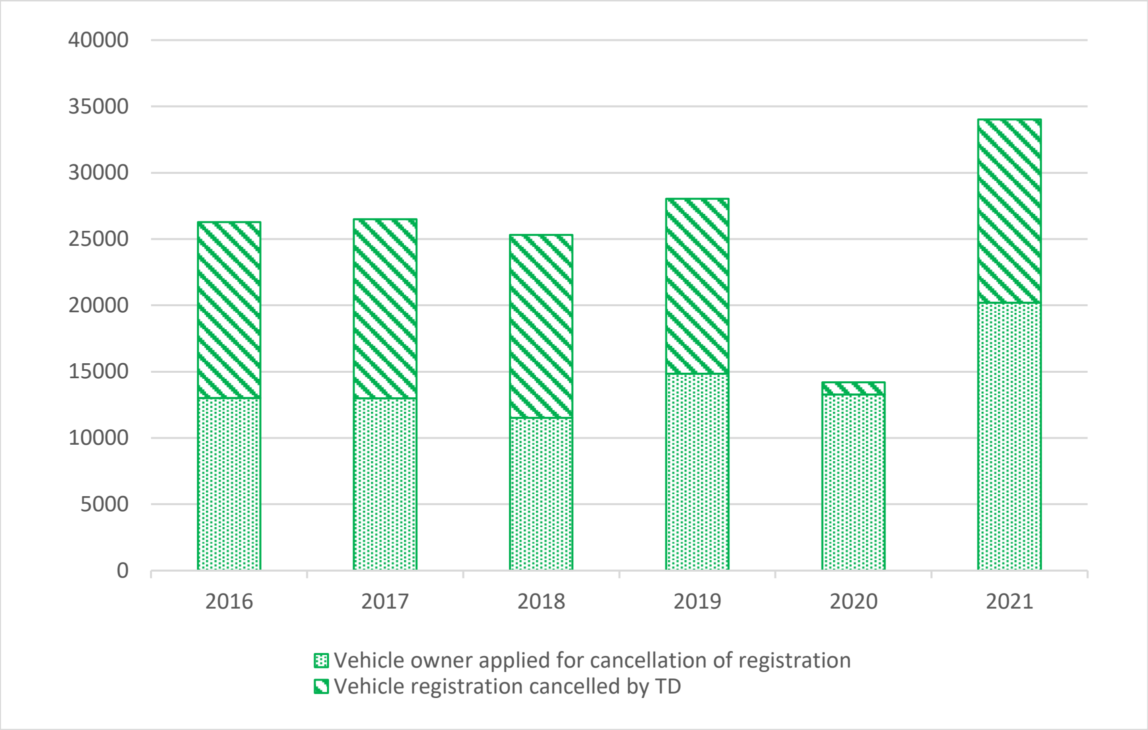
**2.11** **Table 2 and Table 3** show by year the number of motorcycles and private cars that had their registration cancelled between 2016 and 2021.

**Table 2: Number of motorcycles de-registered between 2016 and 2021**




| Year | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
|---|---|---|---|---|---|---|
| No of cases in which the vehicle owner applied for cancellation of registration | 186 (11.3%) | 203 (11.6%) | 176 (9.4%) | 197 (9.7%) | 152 (50.5%) | 334 (15.3%) |
| No. of cases in which the registration was cancelled by TD | 1,459 (88.7%) | 1,554 (88.4%) | 1,696 (90.6%) | 1,827 (90.3%) | 149 (49.5%) | 1,855 (84.7%) |
| Total | 1,645 | 1,757 | 1,872 | 2,024 | 301 | 2,189 |

<u>**Table 3: Number of private cars de-registered between 2016 and 2021**</u>




| **Year** | **2016** | **2017** | **2018** | **2019** | **2020** | **2021** |
|---|---|---|---|---|---|---|
| **No of cases in which the owner applied for cancellation of registration** | **13,016 (49.5%)** | **12,982 (49.0%)** | **11,520 (45.5%)** | **14,851 (53.0%)** | **13,280 (93.5%)** | **20,204 (59.4%)** |
| **No. of cases in which the registration was cancelled by TD** | **13,271 (50.5%)** | **13,520 (51.0%)** | **13,797 (54.5%)** | **13,182 (47.0%)** | **928 (6.5%)** | **13,823 (40.6%)** |
| **Total** | **26,287** | **26,502** | **25,317** | **28,033** | **14,208** | **34,027** |

**2.12** The above two tables show that between 2016 and 2021 (except 2020, see **para. 2.13**), TD had invoked Section 15 of the RLV Regulations to cancel the registration of over 1,400 motorcycles and 13,000 private cars each year. During that same period, an average of about 190 motorcycles and 13,000 private cars each year had their de-registration initiated by the owners. In other words, about 90% of motorcycle de-registration were initiated by TD, and only about 10% were done upon application

by the registered owner. As regards de-registration of private cars, TD and the registered owners of vehicles each initiated around half of the cases.

**2.13** Hong Kong has been affected by the COVID-19 pandemic since early 2020. Taking into consideration that some cross-border vehicles might have been stranded in the Mainland and could not come back to Hong Kong for vehicle examination and licence renewal, TD suspended cancellation of vehicle registration under the RLV Regulations between February 2020 and March 2021. As a result, there were much fewer cases of de-registration of vehicles in 2020.

**2.14** TD pointed out that the reasons for non-licensing of vehicles are manifold. For instance, some vehicle owners are out of town for prolonged periods, expect that the vehicles in question would not be used for a long while, or the vehicles have been put on the market for sale, etc. Under the current law, licensing is not mandatory for registered vehicles. For the sake of road safety, vehicles without a valid licence must be kept off the road.

## TD EXPLORING REGULATIONS TO STRENGTHEN REGULATION OF VEHICLE REGISTRATION AND DISPOSAL

**2.15** TD agreed that under the "user or polluter pays" principle, the registered owners of vehicles or those who need to dispose of vehicles have an obligation to dispose of their unwanted vehicles. Upon our declaration to launch this direct investigation, TD began to explore ways to enhance the current regulatory regime for vehicle registration, including amending the RLV Regulations to require registered owners to renew the licence for their vehicles that have remained unlicensed for two years, or to apply to TD for cancelling the vehicles' registration. Non-compliance would be an offence.

**2.16** TD is also considering amendments to Section 15 of the RLV Regulations (see **item (3) in Table 1, para. 2.1**) with respect to automatic de-registration of vehicles unlicensed for a protracted period, such that the registered owner of a vehicle would be held legally liable for the vehicle until the vehicle's registration is cancelled in accordance with the law (see **para. 2.15**). Upon the amendment, if a vehicle with an expired licence is found abandoned on government land (including public roads), the authorities can still prosecute its registered owner and hold him/her legally liable. TD plans to press ahead with the amendment in the second half of 2022. The amendment is expected to take effect in the first quarter of 2024.

# 3

# HANDLING THE PROBLEM OF ABANDONED VEHICLES BY THE AUTHORITIES

## RELEVANT LEGISLATION

**3.1** At present, vehicles abandoned on government land (including public roads) are usually handled by HKPF or LandsD in accordance with their statutory powers vested under the RTO or LMPO respectively. The relevant provisions under the two ordinances are tabulated in **Table 4**.

**Table 4：Provisions under the RTO and LMPO empowering Government departments to handle vehicles abandoned on roads and government land**

| | Relevant provisions | Enforcement department | Authorised actions by department |
|---|---|---|---|
| (1) | Sections 103 & 104, RTO | **HKPF** | **Remove** and **detain** any vehicle that remains at rest on a road in such conditions or circumstances as to be likely to cause danger to other persons using the road or to interfere with the use of the road. |
| (2) | Section 106, RTO | **HKPF** | **Dispose** of an unclaimed vehicle detained under the above provisions. |
| (3) | Section 107, RTO | **HKPF** | **Remove** and **detain** any vehicle believed to have been abandoned on a road. |

| | Relevant provisions | Enforcement department | Authorised actions by department |
|---|---|---|---|
| (4) | Section 6, LMPO | **LandsD** | Post a notice on any vehicle occupying unleased or unallocated government land to require that such occupation be ceased before the specified date.<br><br>If occupation of the land does not cease as required, **remove** and **take possession** of the vehicle in question and **prosecute** the occupier. |

## POWERS, RESPONSIBILITIES AND EFFORTS OF GOVERNMENT DEPARTMENTS INVOLVED

### *HKPF*

**3.2** In the past, HKPF would remove, detain and dispose of vehicles abandoned on roads pursuant to Section 107 of the RTO (see **item (3) in Table 4, para. 3.1**). The Audit Commission's Report published in 2000 (see **Note 1** in **para. 1.3**) recommended that HKPF should not deploy costly resources to deal with abandoned vehicles on public roads, which could be considered as waste, and that TD should consider amending the legislation to impose legal responsibility for the proper disposal of vehicles on their registered owners and, where necessary, including penalty clauses to penalise irresponsible owners who fail to dispose of their unwanted vehicles properly to achieve deterrent effect. Since the Report, HKPF decided to act only in accordance with Section 103 of the RTO (see **item (1) in Table 4, para. 3.1**) to remove and detain vehicles that would cause immediate danger to road users or obstruction to the traffic. Cases that did not involve missing or wanted vehicles would be referred to LandsD for follow-up (see **paras. 3.3 to 3.5**). Even LandsD had once resumed referring cases of abandoned vehicles on public roads, pavements and public parking spaces back to HKPF for follow-up between December 2018 and December 2019, HKPF reiterated that they would only handle vehicles that affect traffic and road safety.

## *LandsD*

**3.3** In light of the Audit Commission's aforesaid recommendation on legislative amendment, the then Transport Bureau (responsible for transport policy) discussed with LandsD, which subsequently agreed in July 2001 to invoke the LMPO to prosecute registered owners of vehicles who fail to dispose of their unwanted vehicles properly for greater deterrent effect. Upon receipt of complaints or referrals from other departments, LandsD staff would conduct site inspections and make enquiries with HKPF and TD to confirm whether the vehicles in question are missing vehicles and to obtain from them information about the vehicle owners and their addresses.

**3.4** Once confirmed that the vehicle is not involved in any police investigation, LandsD would follow Section 6(1) of the LMPO (see **item (4) in Table 4, para. 3.1**) to post a notice (i.e. a statutory notice) on the abandoned vehicle, demanding the occupier to cease occupation of the government land concerned before the specified deadline[7]. With the information about the last registered owner of the vehicle provided by TD, LandsD would also issue a letter to the owner demanding compliance with the statutory notice (i.e. remove the abandoned vehicle by the specified deadline) and warning him/her of prosecution in case of non-compliance.

**3.5** If the vehicle in question remains in-situ after the specified deadline, it would be removed, confiscated and disposed of by LandsD[8]. It usually takes two to three weeks after the specified deadline to remove a vehicle. The actual time required depends on factors such as the location of the vehicle and accessibility of that location, etc.

**3.6** LandsD argued that prosecution pursuant to the LMPO against those who abandoned vehicles on and occupied government land requires not only sufficient evidence to prove the offence, but also identifying and confirming the identities of the offenders. However, owing to difficulty of proof (e.g. it would be difficult to trace the identity of the occupier if the abandoned vehicle had been de-registered), invoking the LMPO to prosecute those who had abandoned vehicles on government land had not been effective. The five years between 2002 and 2006 only saw eight cases of successful

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7 According to LandsD's internal guidelines, the notification period is seven days or less.

8 In the past, upon expiry of the statutory notice, LandsD would notify TD's contractor to remove the abandoned vehicle. In May 2013, TD notified LandsD that its contract with the contractor would be terminated. Since then, LandsD had to, on its own, arrange for the removal and disposal of the abandoned vehicles confiscated under the LMPO.

prosecution by LandsD. In view of the disproportionate amount of resources being used in handling abandoned vehicles and the low success rate of prosecution against offenders, LandsD decided to suspend evidence collection and prosecution work relating to abandoned vehicles out of concern for resources optimisation since 2007.

**3.7** Save from evidence collection and prosecution work, LandsD continued with the other efforts mentioned in **paragraph 3.4**. This went on until 2018, when LandsD reckoned that handling abandoned vehicles was a traffic enforcement issue rather than a major duty of the Department. It, therefore, proposed to HKPF and TD that the responsibility of disposing of abandoned vehicles on public roads be returned to them, such that LandsD could focus its resources on land administration work. On 28 December 2018, LandsD amended its internal guidelines on handling abandoned vehicles to specify that cases of abandoned vehicles on public roads (including pavements and public parking spaces) be referred to HKPF for follow-up. Subsequently, the guidelines were amended again in December 2019 to instruct its staff to refer cases of abandoned vehicles on public roads to the Highways Department ("HyD").

**3.8** However, as HyD had not agreed to taking up the responsibility of handling vehicles abandoned on public roads, it refused to follow up on the cases referred by the Government hotline ("1823") or District Lands Offices ("DLOs"). It was not until December 2020 that the relevant departments reached a consensus on how to handle abandoned vehicles and decided that the mode of inter-departmental joint operations be adopted to remove vehicles left on public roads. In January 2021, LandsD notified all DLOs that vehicles abandoned on public roads (including public carriageways, public pavements, public parking spaces and public transport interchanges) would be removed by way of inter-departmental joint operations (see **paras. 3.14 to 3.16**), while LandsD would continue to handle vehicles abandoned on unleased and unallocated government land.

***TD***

**3.9** TD is responsible for the regulation of matters relating to public traffic and transport. It indicated that handling of vehicles abandoned on government land (including public roads) is an issue relating to government land administration. Should LandsD or other enforcement departments need help in taking enforcement action, TD would, on a case-by-case basis, provide assistance to check the information of the registered owner of an abandoned vehicle (see **para. 2.7**).

**3.10** In response to the recommendations made in the Director of Audit's Report No. 72[9], TD started to conduct regular half-yearly surveys since late 2019 at non-metered parking spaces (including those for motorcycles) to check whether they are unlawfully occupied by abandoned vehicles or other articles. Once a suspectedly abandoned vehicle is found, TD would refer the case to LandsD and HKPF for follow-up to ensure the effective utilisation of on-street non-metered parking spaces.

**3.11** Furthermore, TD has disseminated information in its website to remind vehicle owners of the importance and ways of cancelling the registration of unwanted vehicles as well as the points to note (see **para. 2.8**) in a bid to reduce instances of improper disposal of vehicles.

**3.12** Regarding vehicles abandoned on public roads in various districts, TD concurred that inter-departmental joint operations are a pragmatic and effective approach to the problem (see **paras. 3.14 to 3.16**). During the joint operations, TD would accept LandsD’s delegation of authority and assist in posting statutory notices on vehicles abandoned on public roads (see **para. 3.4**).

### *HyD*

**3.13** HyD, being a works department, is responsible for the construction, repair and maintenance of the public roads under its management and the ancillary facilities thereon. The Department had never participated in the enforcement or removal efforts relating to abandoned vehicles on public roads and their occupation of government land. In 2019, HyD had explored the feasibility of handling the problem of abandoned vehicles on public roads by the Department under the current legislation. Upon obtaining legal advice, HyD was of the view that it could hardly tackle the problem with its statutory powers, and therefore, did not participate in the regular law-enforcement or removal work in relation to abandoned vehicles. Notwithstanding this, HyD still participates in the inter-departmental joint operations and assists in removing vehicles abandoned on public roads discovered during the operations (see **paras. 3.14 to 3.16**).

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9 Chapter 1 of the Director of Audit's Report No. 72 published in April 2019 is titled “Planning, provision and management of public parking spaces”.

## INTER-DEPARTMENTAL JOINT OPERATIONS

**3.14** During the first half of 2020, the Home Affairs Department ("HAD") received from various District Offices ("DOs") comments that the problem of abandoned motorcycles remained unresolved despite protracted discussions with relevant Government departments at the district level. In July and October 2020, Government departments began discussing ways to tackle the problem of abandoned vehicles at the meetings of the Working Group of the Steering Committee on District Administration and the Steering Committee on District Administration[10]. In December 2020, HKPF, LandsD, TD and HyD reached a consensus to adopt the mode of inter-departmental joint operations to remove vehicles dumped on public roads.

**3.15** DOs are tasked with the organisation and coordination of the joint operations, as well as the handling of related public enquiries and complaints on those operations. TD accepts LandsD's delegation of power and, in accordance with the LMPO, takes enforcement action against vehicles abandoned on four types of locations, *viz.* public carriageways, public pavements, public parking spaces and public transport interchanges. The enforcement action includes posting statutory notices on the abandoned vehicles demanding their removal by the occupiers before a specified deadline. Should the vehicles remain where they are after expiry of the notice period, HyD would tow them to LandsD's vehicle storage pounds. LandsD would take up from there and dispose of the confiscated vehicles in accordance with relevant Government procedures, liaise with the Government Logistics Department to arrange auctions for the vehicles or dispose of them in other appropriate ways.

**3.16** Generally speaking, districts where more abandoned vehicles are found and more complaints are received would be given priority in inter-departmental joint operations. Between January 2021 and March 2022, as many as 182 joint operations have been conducted in 18 districts, with around 1,300 abandoned vehicles removed. HAD stated that with growing public concern about the problem of abandoned vehicles, more reports and complaints are being received by the various departments. As a result, joint operations in individual districts may take a time longer than expected to execute.

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10 Chaired by the Permanent Secretary for Home Affairs, the Steering Committee on District Administration, comprising representatives from relevant departments, provides a platform for inter-departmental discussion and consultation to enable the departments to make concerted efforts to address district issues such as street management etc.

## COORDINATION BY HAD

**3.17** HAD explained that handling of abandoned vehicles is not within its policy purview. In the process of coordination, it can only put forward the best possible solution based on its understanding of the stance and considerations of the various departments, then persuade them to adopt the mode of joint operations so that they can exploit their own advantages in resources and statutory powers to work together and handle the problem of abandoned vehicles.

**3.18** While the relevant departments have indicated their willingness to participate in the joint operations, it could still prove difficult and time-consuming to identify a leading department to invoke its statutory powers and take the lead to post statutory notices and remove the vehicles in question. A problem yet to be resolved is motorcycles abandoned in public rear lanes. TD is of the view that public rear lanes have neither real traffic nor transport function and are not within its jurisdiction. So, TD is precluded from handling the problem. LandsD opined that public rear lanes are "roads" as defined in the RTO. If a certain rear lane is under HyD's maintenance, motorcycles abandoned there should be handled by TD/HyD according to the mode of joint operations in place. Nevertheless, TD and HyD did not agree to such a view. HyD stressed that it only plays an assisting role in towing the abandoned and confiscated vehicles to the Government's storage pounds (see **para. 3.15**), from where LandsD would follow up on the matter.

**3.19** HAD considered that one feasible and long-term solution to the problem of abandoned vehicles is to step up publicity and education, and introduce a vehicle owner liability system. Given the absence of a management department for a majority of public rear lanes, HAD opined that LandsD, as one of the land administration departments, can consider invoking its powers under the LMPO to affix statutory notices on motorcycles abandoned in rear lanes, while other departments can provide assistance in towing service and checking the identity of the vehicle owners. HAD can discuss the proposal further if the relevant departments agree to the arrangement.

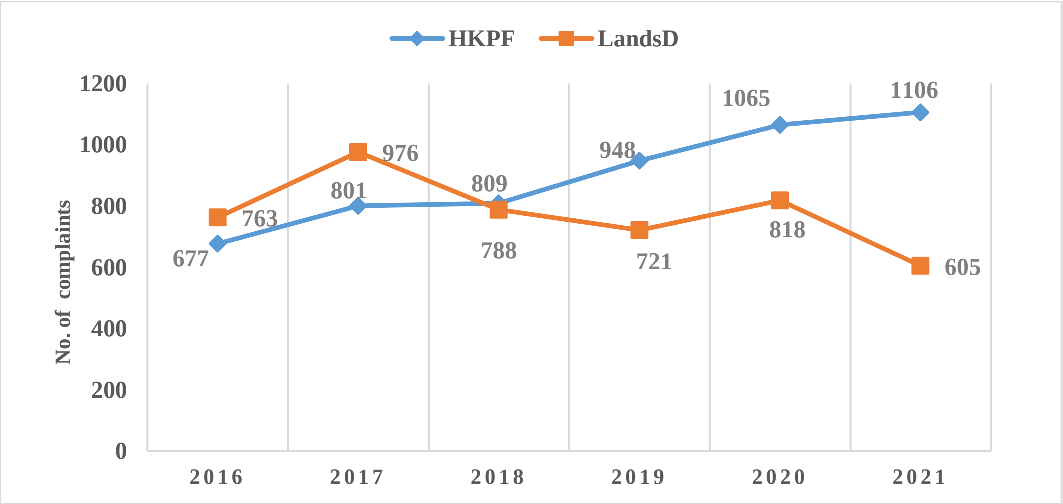
# 4

# OVERVIEW OF THE ABANDONED VEHICLE PROBLEM

## COMPLAINT FIGURES

**4.1** Between 2016 and 2020, the number of complaints about abandoned vehicles received by HKPF and LandsD has steadily increased by about 31%, from 1,440 cases to 1,883 cases (see **Chart 5**), reflecting that the problem of abandoned vehicles persisted. Although Government departments began to remove abandoned vehicles on public roads by way of joint operations since early 2021 (see **paras. 3.14 to 3.16**), there was no discernible decrease in the number of complaints that year. While that might partly be attributable to the public being more proactive in making such complaints upon learning about the joint operations, it also means that the problem of abandoned vehicles needs to be improved.

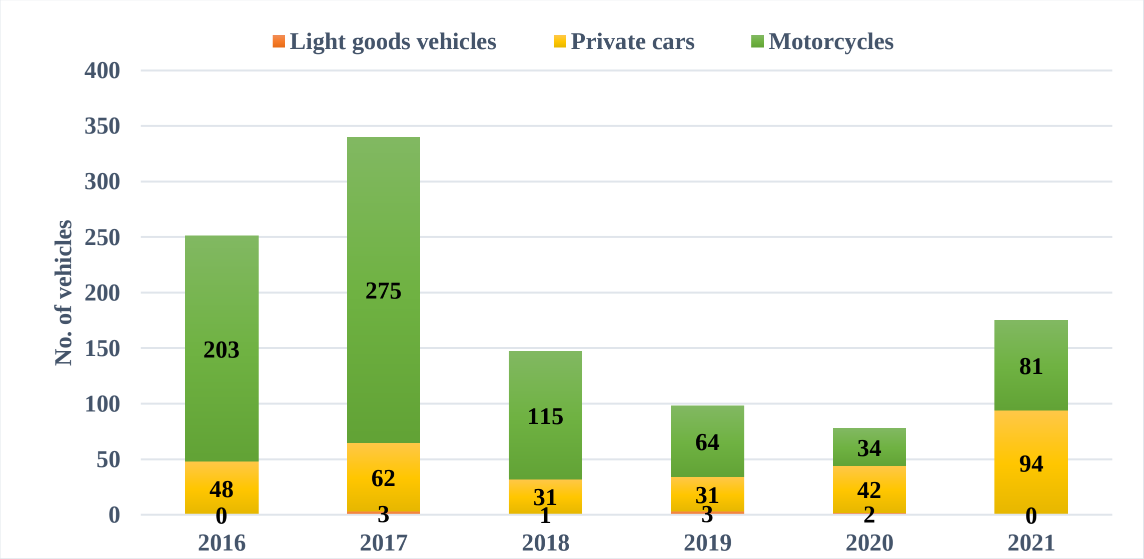
**Chart 5: Number of complaints about abandoned vehicles received by HKPF and LandsD between 2016 and 2021**



## NUMBER OF ABANDONED VEHICLES REMOVED BY LANDSD

**4.2** **Chart 6** shows the number of abandoned vehicles on government land (including public roads) removed by LandsD in recent years. In 2016, LandsD had removed 251 vehicles abandoned on government land. Then in December 2018, it decided to suspend follow-up action on vehicles abandoned on public roads (see **para. 3.7**), and the number of vehicles removed in 2019 and 2020 fell to 98 and 78 respectively, then increased to 175 in 2021. Prior to 2019, the types of vehicles removed by LandsD were predominantly motorcycles, followed by private cars.

**Chart 6: Number of abandoned vehicles on government land removed by LandsD**[11]




## SURVEYS OF PUBLIC PARKING SPACES

**4.3** Each year between 2016 and 2021, TD received 14 to 29 cases (including those referred by 1823) complaining against motorcycle parking spaces being unlawfully occupied by abandoned motorcycles or other objects.

**4.4** Since 2019, TD began to conduct regular surveys on non-metered parking spaces under its management (see **para. 3.10**), and the first two surveys covered some

11 Only three types of abandoned vehicles, namely motorcycles, private cars and light good vehicles were confiscated and auctioned off by LandsD.

9,000 such parking spaces. During the first survey in late 2019, around 390 parking spaces were found being unlawfully occupied by abandoned vehicles or other objects; while the second survey in mid-2020 found around 300 parking spaces being so occupied. In other words, about 4.3% and 3.2% of the parking spaces surveyed were found being unlawfully occupied in 2019 and 2020 respectively. In this light, TD considered that although the problem of public parking spaces being occupied by abandoned motorcycles or other articles did exist, it was not prevalent.

## OUR SITE VISITS

**4.5** Between August 2020 and June 2021 (i.e. including the time before and after the launching of the joint clearance operations, see **paras. 3.14 to 3.16**), our officers had conducted site visits at on-street public parking spaces in various districts across the territory (including Causeway Bay, Wanchai, Yau Tsim Mong, Sham Shui Po, Kowloon City, Wong Tai Sin, Kwun Tong, Sai Kung, Tsuen Wan, the Northern District and Tuen Mun), as well as several widely reported blackspots of abandoned vehicles such as Route Twisk and Fu Hang Road in Tuen Mun.

### *Abandoned Motorcycles*

**4.6** Our officers had visually assessed the status of the motorcycles. If a motorcycle did not display a registration mark and/or vehicle licence, had no rear-view mirrors, had exposed wires, a severely rusted body or leaking tyres, etc., then we believed that it had not been driven for a long time and could be considered abandoned.

**4.7** Our site visits discovered more than 370 motorcycles in the aforesaid districts matching the descriptions in **paragraph 4.6** having been abandoned in public parking spaces and the carriageways, pavements and rear lanes nearby. Even if some motorcycles did display a vehicle licence, in most cases the licences had expired, one of which more than eight years prior to the date of our site visit.

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|---|---|
| | |
| **Public parking spaces on Chung Wui Street, Tai Kok Tsui** | **Public parking spaces on Yuet Wah Street, Kwun Tong** |

**4.8** In addition, our officer had found abandoned motorcycles on the roads near those parking spaces (such as pavements and rear lanes). During the visits, some motorcyclists approached us and said that no Government department was willing to tackle the problem of occupation of public parking spaces by abandoned vehicles. As a result, they could not use the parking spaces for a protracted period and had no other choice but to push the abandoned vehicles to the roadside or the pavements/rear lanes nearby.

| | |
|---|---|
| | |
| **Pavement on Fleming Road, Wan Chai** | **Rear lane on Man On Street, Tai Kok Tsui** |

*Other Abandoned Vehicles*

**4.9** According to our observation, unlike motorcycles, private cars, trucks and container trucks were usually abandoned on relatively hidden roads in the suburbs or remote areas such as the Route Twisk, Chuen Lung, and the public car parks and pavement in Yuen Long and Tuen Mun. We believed this to be attributable to the vehicles' relatively bigger sizes. Just like abandoned motorcycles, these abandoned vehicles had licences that had long expired, or did not display any car number plate or vehicle licence at all.

| | |
|---|---|
| | |
| **Route Twisk** | **Fu Hang Road, Tuen Mun** |

# 5

# COMMENTS AND RECOMMENDATIONS

## OVERALL COMMENTS

**5.1** As early as 2000, the Audit Commission had pointed out the problem of prolonged occupation of public parking spaces, carriageways or pavements by unwanted vehicles. The details given in **Chapter 4** above show that the problem has been persistent and pervasive. TD's surveys at public parking spaces concluded that although the problem of public parking spaces being occupied by abandoned vehicles or other objects did exist, it was not prevalent (see **para. 4.4**). Nevertheless, as pointed out in **paragraph 4.8** above, some motorcyclists had told us that they, out of desperation, had to push away the vehicles abandoned in public parking spaces because they could not use the occupied spaces. In other words, it is possible that the problem was considered not prevalent only because some members of the public had already moved away some of the motorcycles abandoned. Abandoned vehicles sitting at the roadside for months or years on end would lead to a waste of public parking spaces and obstruction to road users; while vehicles abandoned on public roads and other government land would also bring street management and environmental hygiene problems. Even though the relevant Government departments have expediated the removal of vehicles abandoned on public roads through inter-departmental joint clearance operations since late 2021, the Government has still failed to effectively curb the inappropriate behaviour of abandoning vehicles. This not only fell short of public expectation, but also consumed considerable resources of several Government departments.

**5.2** This Office considers that the immediate causes of the persistent problem of abandoned vehicles are the unclear delineation of powers and responsibilities among departments and the ineffective approach to curb the problem. Besides, the Government's measures exert no deterrent effect at all on irresponsible vehicle owners. Since 2000 when the HKPF ceased to follow up on abandoned vehicles that pose no danger to traffic or road safety pursuant to Section 107 of the RTO, the Government has

been adopting an enforcement strategy that tries to prosecute the registered owners of those vehicles abandoned on government land by invoking the LMPO. Nevertheless, LandsD considered that difficulty of proof had rendered prosecution efforts largely ineffective, and had thus suspended its work on evidence collection and prosecution for those cases since 2007 (see **para. 3.6**). The relevant departments have been engaging in rounds of discussion to resolve the issue since 2018 (see **para. 3.7)**. It was not until 2021 when HAD intervened that inter-departmental joint clearance operations were launched to remove abandoned vehicles (see **para. 3.14**).

**5.3** The crux of the problem, as The Ombudsman sees it, is that the Government has yet to establish the responsibility of vehicle owners to dispose of their vehicles properly and hold the owners liable for non-compliance. As a result, vehicle owners can wilfully abandon their vehicles. Stepped up efforts by the Government to remove vehicles abandoned at the roadside have in effect been helping vehicle owners to dispose of their vehicles for free. The removal efforts only address the symptoms and offer no long-term solution to the problem.

**5.4** In the light of our findings, we have the following comments and recommendations.

## (I) TD SHOULD PROMPTLY AMEND THE LEGISLATION TO HOLD VEHICLE OWNERS RESPONSIBLE FOR PROPER DISPOSAL OF THEIR UNWANTED VEHICLES

**5.5** The Audit Commission had pointed out in as early as 2000 the absence of any legislation in Hong Kong to hold the registered owners of vehicles responsible for the proper disposal of their vehicles, and recommended that the legislation be amended to impose penalties on owners who fail to dispose of their vehicles properly (see **para. 1.3**). This Office considers that as TD agrees with the "user pays" principle, it should require vehicle owners to take up the responsibility for disposing of their vehicles so as to tackle the problem of abandoned vehicles at the root. Section 20(1) of the RLV Regulations stipulates that when a motor vehicle is broken up, its registered owner shall notify TD within 15 days for cancelling the vehicle's registration (see **para. 2.8**). Non-compliance is an offence. Nevertheless, most of the vehicles abandoned at the roadside have not been broken up or destroyed. This provision of the RLV Regulations has clearly failed to stop vehicle owners' improper behaviour of abandoning their vehicles.

**5.6** TD is responsible for the registration and licensing of vehicles and holds the registration details of all vehicles in Hong Kong. The legislation enforced by the Department also covers the whole life cycle of vehicles, including their specifications, importation and registration, maintenance and examination, and their destruction, etc. Each and every phase in the cycle comes under TD's powers and functions. We are of the opinion that TD should proactively examine ways to make better use of the vehicle registration regime so that vehicle owners can be prompted to dispose of their unwanted vehicles properly, and to propose legislative amendments as and when necessary. Nevertheless, it has been more than 20 years since the publication of the aforementioned Audit Report and there is no information showing that TD has been taking proactive actions as recommended. Even after LandsD later pointed out that prosecution actions against offenders had been largely ineffective and unsuccessful, TD just continued to focus on removing abandoned vehicles, rather than establishing the responsibility of vehicle owners and holding them liable for violations. We consider it inappropriate of TD to define occupation of public roads and public parking spaces by abandoned vehicles merely as a land administration problem. (see **para. 3.9**).

**5.7** In the absence of effective penalties, it costs vehicle owners extremely little to abandon their vehicles on public parking spaces, at the roadside or on government land. If this problem is not addressed, the situation would not improve at all.

**5.8** We are glad to learn that upon our declaration to launch this direct investigation, TD has commenced a study to enhance the regulatory regime for vehicle registration and put forward more concrete legislative amendment proposals (see **paras. 2.15 and 2.16**). This is a step towards rectifying the problem. We opine that TD should closely follow up on and press ahead with the legislative amendments, formulate clear objectives and set a timetable for enacting the amended legislation. The amendments should include provisions stating outright the vehicle owners' responsibility for the proper disposal of their unwanted vehicles and their legal liability for non-compliance. The relevant provisions should also confer power on the Government to require vehicle owners to bear the cost incurred by the authorities in disposing of the vehicles on their behalf, and/or impose a fine with sufficient deterrent effect.

## (II) TD SHOULD TAKE INITIATIVE TO REMIND VEHICLE OWNERS TO RENEW VEHICLE LICENCE IN A TIMELY MANNER AND DISPOSE OF UNWANTED VEHICLE PROPERLY

**5.9** Each year, quite a number of vehicles have had their registration cancelled by TD pursuant to the RLV Regulations because of non-renewal of licence for two consecutive years (see **paras. 2.11 and 2.12**). Between 2016 and 2021, a total of 8,540 motorcycles and 68,521 private cars had been so de-registered by TD.

**5.10** We understand that there may be justifiable grounds for vehicle owners not to license their registered vehicles (see **para. 2.14**). For instance, the owners were out of town for a prolonged period; the owners expected that the vehicles would not be of use for long time; the vehicles had been put up for sale or were just collection items. However, our conjecture is that such vehicles should only account for a very small number among the tens of thousands of vehicles de-registered by TD. A vast majority of them had already been abandoned by their owners. Actually, even if the vehicles have not been abandoned, but only broken up, destroyed or despatched permanently out of Hong Kong, their owners would have violated Section 20(1) of the RLV Regulation if they had not notified TD in writing within 15 days after the vehicles had been so disposed of (see **item (5) in Table 1, para. 2.1**). As a result, TD could in no way ascertain the whereabouts of such vehicles.

**5.11** The sheer number of unlicensed or de-registered vehicles with status and whereabouts unknown would have latent implications for use of land (including roads), cityscape and environmental hygiene. As the authority responsible for vehicle registration and licensing, TD should be concerned about the whereabouts of these vehicles. Nevertheless, before cancelling a vehicle's registration, TD would only notify its owner in writing that de-registration would be done after 15 days, but not take the opportunity to enquire about the current status and whereabouts of the vehicle (such as whether it has been broken up, destroyed or sent out of Hong Kong), or in case the owner decides to give up the vehicle, whether the vehicle has been properly disposed of. We consider TD's practice unsatisfactory from an administrative perspective.

**5.12** To monitor and prevent the problem of abandoned vehicles before completion of the legislative amendments, TD should proactively remind vehicle owners of their responsibility to properly dispose of their vehicles and to notify the Department after their vehicles have been broken up, destroyed or despatched permanently out of Hong Kong, as required by the statute. In respect of vehicles whose

licence has remained unrenewed for a certain period (say, the licence has expired for more than a year), TD should remind their owners to renew the licence in a timely manner and to properly dispose of the vehicles.

## (III) TD AND LANDSD SHOULD STRENGTHEN COLLABORATION IN EVIDENCE COLLECTION TO RAISE CHANCE OF SUCCESSFUL PROSECUTION FOR GREATER DETERRENT EFFECT

**5.13** Before completion of the legislative amendments to hold vehicle owners responsible for proper disposal of their vehicles, the inter-departmental joint clearance operations to remove abandoned vehicles on public roads, public pavements and public parking spaces, as well as LandsD's enforcement actions against vehicles abandoned on other government land, have largely been conducted pursuant to the LMPO. Yet, the number of successful prosecutions was minuscule (see **para. 3.6**). LandsD has mentioned the difficulty in tracing the identity of the occupier if the vehicle in question had already been de-registered.

**5.14** Since 2007, LandsD has suspended its work on evidence collection and prosecution for abandoned vehicle cases. Our view is that removals short of prosecution cannot help solve the problem. For more effective enforcement, LandsD should consider relaunching its work on evidence collection and prosecution, and TD should proactively assist in providing information about the vehicle owners concerned and modify the procedures for or postpone de-registration of vehicles to facilitate LandsD's tracing the identity of the occupiers.

## (IV) THERE HAD BEEN AN ENFORCEMENT VACUUM

**5.15** Between December 2018 and December 2019, LandsD had twice revised its internal guidelines to instruct DLOs to refer cases of abandoned vehicles on public roads to HKPF and HyD for their follow-up actions (see **paras. 3.7 and 3.8**). However, records show that HKPF had not accepted LandsD's referral arrangement, while LandsD had failed to directly notify HyD of the arrangement. Under such circumstance, no Government department was actually responsible for handling complaints about abandoned vehicles on public roads since December 2018, resulting in an extremely undesirable enforcement vacuum that lasted for more than two years. We must point out that even if LandsD considered it ineffective and resource-draining

for the Department to follow up on cases of abandoned vehicles, it should not have ceased related efforts unilaterally before some other department took over the matter.

**5.16** Fortunately, with HAD's coordination, the departments concerned eventually agreed to collaborate and adopt the mode of inter-departmental joint operations to handle abandoned vehicles on public roads, public pavements, public parking spaces and public transport interchanges. Since early 2021, backlog cases of abandoned vehicles in various districts have been dealt in accordance with priority. However, the responsibility for handling certain cases (e.g. motorcycles abandoned in public rear lanes) is yet to be confirmed and as a result, the vehicles concerned are yet to be handled. On this matter, we consider that LandsD and TD must take the initiative to engage in substantive discussions with other relevant departments (including HyD and HKPF) to strengthen inter-departmental cooperation with a view to formulating together the procedures for handling the motorcycles abandoned in rear lanes.

**5.17** In addition, we also notice that the actual situation and severity of the problem of abandoned vehicles differ among districts. For instance, some districts only involved motorcycles, while some other districts might see a rapid increase in the number of abandoned vehicles. In this light, HAD, as the department that drives the development of district administration, can be more proactive in organising inter-departmental joint clearance operations in a timelier fashion based on the actual situation of individual districts. It should also explain clearly the relevant follow-up actions to complainants and members of the public.

## OUR RECOMMENDATIONS

**5.18** In light of our findings in this direct investigation, The Ombudsman has made seven recommendations, as follows:

(1) **TD** to closely follow up on and press ahead with the legislative amendments to stipulate clearly that vehicle owners are responsible for proper disposal of their unwanted vehicles and they are liable for non-compliance (see **para. 5.8**);

(2) **TD**, in the process of legislative amendments, to consider adding provisions that allow the Government to recover from the persons concerned the cost incurred in disposing of the abandoned vehicles on their behalf, and/or impose a fine (see **para. 5.8**);

(3) **TD** to proactively remind owners of vehicles of which vehicle licence have already expired for a certain period to renew the vehicle licences and to dispose of their vehicles properly (see **para. 5.12**);

(4) **LandsD** to consider relaunching its work on evidence collection and prosecution in abandoned vehicle cases, including collaborating with TD to check the information of the last owner of the vehicle concerned in order to trace the identity of the occupier (see **para. 5.14**);

(5) **TD** to proactively collaborate with LandsD in evidence collection, including considering modifying the procedures of de-registering a vehicle which has remained unlicensed for more than two years or postponing its de-registration so as to facilitate LandsD's tracing the identity of the occupier (see **para. 5.14**);

(6) **LandsD and TD** to strengthen cooperation with other relevant departments (including HyD and HKPF) with a view to formulating together the procedures for handling the motorcycles abandoned in public rear lanes (see **para. 5.16**); and

(7) **HAD** to proactively monitor the situation of various districts and organise joint clearance operations in a timelier fashion to remove abandoned vehicles in a district. It should also explain clearly its follow-up actions to complainants and members of the public (see **para. 5.17**).

## ACKNOWLEDGEMENTS

**5.19** The Ombudsman thanks TD and LandsD for their full cooperation in the course of this investigation. She also thanks HAD, HKPF, the Environmental Protection Department and the 1823 for providing relevant information.

**Office of The Ombudsman**
**Ref: OMB/DI/451**
**September 2022**